

### REMARKS

In this Response, Applicant cancels claim 4 without prejudice, amends claims 1, 7, and 22, adds new claims 23-24, and traverses the Examiner's rejections. Amendments to the claims should not be construed as acquiescence to any of the rejections. Rather, amendments to the claims are being made solely to expedite prosecution of the instant application. Silence with regard to any of the Examiner's rejections should not be construed as acquiescence to any of the rejections. Specifically, silence with regard to any of the rejections of the dependent claims that depend from an independent claim considered by Applicant to be allowable based on the Amendment and/or Remarks provided herein should not be construed as acquiescence to any of the rejections. Rather, silence should be construed as recognition by the Applicant that the previously lodged rejections are moot based on the Amendment and/or Remarks submitted by the Applicant relative to the independent claim from which the dependent claims depend. Applicant reserves the option to further prosecute the same or similar claims in the instant or a subsequent application. Upon entry of the Amendment, claims 1-3, 5, 7, and 10-24 are pending in the present application.

#### Amendments to the Claims

Applicant cancels claim 4 without prejudice.

Applicant amends claims 1 and 22 to add the clause "having a size and a shape substantially mated to the size and the shape of the region" to modify the phrase "the projections being shaped and arranged to inhibit a change in an orientation of a sample."

Applicant also amends claims 1, 7, and 22 for reasons related to consistency of terminology among claim species and antecedent basis. Applicant does not consider these amendments to the claims to be related to patentability. Further, Applicant does not consider these amendments to narrow the claims.

Support for the amendments to the claims can be found throughout the originally filed application. The amendments to the claims thus do not provide new matter.

#### Objections to the Drawings

The Examiner objected to the drawings for not showing the features "each projection[] has a cross-section having a substantially hemispherical shape" (Applicant's claim 4) and

"wherein the receptacle has a height and a cross-section having a first extent, the first extent of the cross-section being substantially constant over the height" (Applicant's claim 7).

As previously provided herein, Applicant cancels claim 4 without prejudice.

As also previously provided herein, Applicant amends claim 7 to recite that "the receptacle has a height and a transverse cross-section having a first extent, the first extent of the cross-section being substantially constant over the height." Applicant considers Figures 3A, 3B, and 6 to show this feature.

Accordingly, Applicant traverses the Examiner's objections to the drawings and considers the drawings to comply with 37 C.F.R. § 1.83(a).

#### Claim Rejections

##### 35 U.S.C. § 112, ¶ 2

The Examiner rejected claim 4 under 35 U.S.C. § 112, ¶ 2 as being "not clear how the protrusions have a substantially hemispherical cross section."

As previously provided herein, Applicant cancels claim 4 without prejudice. Applicant considers this amendment to traverse the Examiner's rejection of claim 4 under 35 U.S.C. § 112, ¶ 2.

##### 35 U.S.C. § 102(b)

The Examiner rejected claims 1-5, 7, 10, and 13-19 under 35 U.S.C. § 102(b) as being anticipated by Dietterich and claims 1-5, 7, 10-16, and 20 under 35 U.S.C. § 102(b) as being anticipated by Messier.

Applicant's independent claim 1 is directed to a container for storing a sample. Among other things, Applicant's independent claim 1 includes a receptacle having a side wall and an inner surface and a plurality of projections extending upward along and outward from the inner surface of the sidewall. *The projections define a region for receiving a sample and are shaped and arranged to inhibit a change in an orientation of a sample having a size and a shape substantially mated to the size and the shape of the region.*

Dietterich describes a container that includes a body portion and barrier elements that are disposed in the body portion to reduce the effective diameter of the body portion. (Dietterich col. 1, ll. 29-43.) Dietterich's barrier elements are shaped and arranged to prevent a child from

inserting his head into the storage area of the body portion. (Dietterich col. 1, ll. 41-43.) In contrast to Applicant's claim 1, Dietterich does not teach that *the barrier elements are shaped and arranged to inhibit a change in an orientation and a position of a sample having a size and a shape substantially mated to the size and the shape of the region defined by the barrier elements*. Moreover, a sample having a size and a shape mated to the region defined by the barrier elements (i.e. as suggested in Dietterich Fig. 2, a sample having a circular orientation) can change its orientation without hindrance when disposed in the storage container. As such, Dietterich does not teach the feature of Applicant's claim 1 directed to *projections that define a region for receiving a sample and that are shaped and arranged to inhibit a change in an orientation of a sample having a size and a shape substantially mated to the size and the shape of the region*.

Messier describes a container that includes prongs and posts disposed in the interior of the container. As described in Messier col. 5, ll. 1-45 and shown in Messier Fig. 4, a bioartificial organ can be secured by the prongs and wrapped around the posts. In contrast to Applicant's claim 1, Messier does not teach that *the prongs and the posts are shaped and arranged to inhibit a change in an orientation and a position of a sample having a size and a shape substantially mated to the size and the shape of the region defined by the prongs and the posts*. Moreover, a sample having a size and a shape mated to the region defined by the prongs and the posts (i.e. as suggested in Messier Fig. 4, a sample having a roughly circular orientation) can change its orientation and position without hindrance when disposed in the storage container. As such, Messier does not teach the feature of Applicant's claim 1 directed to *projections that define a region for receiving a biological sample and that are shaped and arranged to inhibit a change in an orientation of a sample having a size and a shape substantially mated to the size and the shape of the region*.

In summary, neither Dietterich nor Messier teaches the feature of Applicant's claim 1 that includes *projections that define a region for receiving a sample and that are shaped and arranged to inhibit a change in an orientation of a sample having a size and a shape substantially mated to the size and the shape of the region*. As such, Applicant traverses the Examiner's rejection of independent claim 1 under 35 U.S.C. § 102(b) and considers independent claim 1 to be allowable. Since claims 2-5, 7, and 10-21 depend from independent

claim 1, Applicant also considers claims 2-5, 7, and 10-21 to be allowable as depending on an allowable base claim.

35 U.S.C. § 103(a)

The Examiner rejected claims 1-5, 7, 10, 12-14, 17-19, 21, and 22 under 35 U.S.C. § 103(a) as being unpatentable over Singleton in view of Hoogesteger.

*Claims 1-5, 7, and 10-21*

As previously provided herein, Applicant's independent claim 1 includes a receptacle having a side wall and an inner surface and a plurality of projections extending upward along and outward from the inner surface of the sidewall. *The projections define a region for receiving a sample and are shaped and arranged to inhibit a change in an orientation of a sample having a size and a shape substantially mated to the size and the shape of the region.*

As stated by the Examiner, Singleton does not teach "the plurality of projection[s] extending upward along and outward from the inner surface of the sidewall." Singleton does not, therefore, teach the feature of Applicant's claim 1 directed to *projections that define a region for receiving a sample and that are shaped and arranged to inhibit a change in an orientation of a sample having a size and a shape substantially mated to the size and the shape of the region.*

Hoogesteger describes a contact lens case having a lens supporting structure that includes ribs having sphero-concave shapes. (Hoogesteger col. 2, ll. 1-11 and Figs. 2 and 3.) In contrast to Applicant's claim 1, Hoogesteger does not teach that *the ribs are shaped and arranged to inhibit a change in an orientation and a position of a sample having a size and a shape substantially mated to the size and the shape of the region defined by the ribs.* Moreover, a sample having a size and a shape mated to the region defined by the ribs (i.e. as suggested in Hoogesteger Figs. 2 and 3, a sample (such as a contact lens) having a circular orientation) can change its orientation without hindrance when disposed in the contact lens case. As such, Hoogesteger does not teach the feature of Applicant's claim 1 directed to *projections that define a region for receiving a sample and that are shaped and arranged to inhibit a change in an orientation of a sample having a size and a shape substantially mated to the size and the shape of the region.*

As the Examiner knows, the Examiner must show that all of the features of Applicant's claims are satisfied by the cited references to establish a prima facie cases of obviousness under

35 U.S.C. § 103(a). As provided herein, none of the cited references, whether considered separately or in combination, teaches all of the features of Applicant's independent claim 1. The Examiner thus fails to provide prima facie cases of obviousness for at least this reason. Applicant's failure to address the motivation and reasonable expectation of success elements of 35 U.S.C. § 103(a) should not be interpreted as an admission that such elements are satisfied, but rather as a recognition by the Applicant that such elements are moot given the Examiner's failure to provide a showing of all of the features of Applicant's independent claim 1.

Since the Examiner fails to provide a prima facie case of obviousness at least for failing to show that all of the features of Applicant's independent claim 1 can be provided by a hypothetical combination of Singleton and Hoogesteger, Applicant traverses the Examiner's rejection of independent claim 1 under 35 U.S.C. § 103(a) and considers independent claim 1 to be allowable. Since claims 2-5, 7, and 10-21 depend from independent claim 1, Applicant also considers claims 2-5, 7, and 10-21 to be allowable as depending on an allowable base claim.

#### *Claim 22*

Applicant's independent claim 22 includes features similar to Applicant's independent claim 1. Applicant thus refers to the discussion relative to independent claim 1 and, for the same reasons stated with respect thereto, Applicant considers independent claim 22 to be allowable.

#### New Claims

As previously provided herein, Applicant adds new claims 23 and 24 directed to features of the present application. New claims 23 and 24 depend from independent claims 1 and 22, respectively.

Support for the new claims can be found throughout the originally filed application. The new claims thus do not provide new matter.

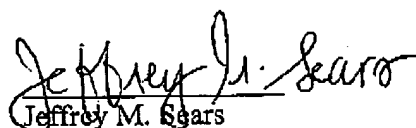
As previously provided herein, Applicant considers independent claims 1 and 22 to be allowable. Since claims 23 and 24 depend from independent claims 1 and 22, respectively, Applicant considers claims 23 and 24 to be allowable as depending on an allowable base claim.

**CONCLUSION**

Applicant considers the Response provided herein to be fully responsive to the present Office Action. Based on the foregoing Amendment and Remarks, Applicant considers the present application to be allowable. Accordingly, Applicant requests allowance. Applicant invites the Examiner to contact the undersigned Attorney if issues are deemed to remain prior to allowance.

Respectfully submitted,  
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Date: August 26, 2003

  
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